

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Telephone Number:

In Re:

Refer Reply To:

CC:PSI:B04

PLR-120310-08

Date:

October 16, 2008

Legend:

Decedent	=
City	=
Country	=
State	=
Museum	=
Date 1	=
X	=
Y	=

Dear :

This is in response to your authorized representative's letter, dated April 25, 2008, requesting rulings under § 2055 of the Internal Revenue Code.

The facts submitted and the representations made are as follows. Decedent died on Date 1, a United States citizen, domiciled in State. In her will, Decedent bequeathed \$X in trust to City in Country "to be used for charitable purposes" and y paintings to Museum, located in City.

City is a municipality of Country that engages in public functions that are not charitable but are authorized by law. Museum is a department of the municipal government of City dedicated to the encouragement of the arts. It is a public entity; thus, it does not have any articles of incorporation or association. Its purpose and function are the housing and display of its collections of art work to the public. These collections are held by Museum in trust for the exclusive benefit of the public and are inalienable. Museum has tax exempt status under Country law, and gratuitous transfers to it are exempt from Country transfer taxes.

You have requested the following rulings: (1) the bequest of \$X to City will qualify for a charitable deduction under § 2055(a)(3); and (2) the bequest of y paintings to Museum will qualify for a charitable deduction under § 2055(a)(2) and/or § 2055(a)(3).

Law and Analysis:

Section 2055(a) provides, in relevant part, that for purposes of the federal estate tax, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests:

(1) to or for the use of the United States, any State, any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(2) to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art, or for the prevention of cruelty to children or animals, provided no part of the net earnings of which inures to the benefit of any private stockholder or individual, which is not disqualified for tax exemption under § 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office;

(3) to a trustee or trustees but only if such contributions or gifts are to be used by such trustee or trustees exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, such trust would not be disqualified for tax exemption under § 501(c)(3) by reason of attempting to influence legislation, and such trustee or trustees does not participate in, or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 20.2055-1(a)(4) of the Estate Tax Regulations provides that the charitable deduction under § 2055 is not limited, in the case of estates of citizens or residents of the United States, to transfers to domestic corporations or associations, or to trustees for use within the United States.

Rev. Rul. 74-523, 1974-2 C.B. 304, concludes that a gift to a foreign government or political subdivision to be used exclusively for charitable purposes qualifies for an estate tax charitable deduction under § 2055. The revenue ruling cites with approval Old Colony Trust Co. v. United States, 438 F.2d 684 (1st Cir. 1971), in which an estate tax charitable deduction was allowed for a transfer to a hospital corporation owned by a Canadian municipality; Kaplun v. United States, 436 F.2d 799 (2nd Cir. 1970), in which the deduction was allowed for the value of a coin collection bequeathed to a foreign country for perpetual exhibition in a museum; and National Savings and Trust Co. v. United States, 436 F.2d 458 (Ct. Cl. 1971), in which the deduction was allowable for a bequest to a German city on the condition that it be used for the construction or improvement of a home for the aged.

The revenue ruling states that deductions under § 2055(a) will be disallowed for bequests of property to foreign governments or political subdivisions thereof if the use of

the property is not limited to exclusively charitable purposes within the meaning of §§ 2055(a)(2) and 2055(a)(3).

Based upon the facts submitted and the representations made, we conclude that the bequest of \$X to City qualifies for a charitable deduction under § 2055(a)(3) and that the bequest of y paintings to Museum qualifies for a charitable deduction under §§ 2055(a)(2) and (3).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, no opinion is expressed or implied regarding the consequences of any estate tax treated between Country and the United States. See §§ 894(a) and 7852(d)(1).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Lorraine E. Gardner

Lorraine E. Gardner
Senior Counsel, Branch 4
(Passthroughs & Special Industries)

Enclosures: Copy for § 6110 purposes

cc: